

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8372 of 2014

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1. Bibi Sultana Khatoon Wife of Late Syed Mazhar Iqbal
2. Hasan Azhar Son of Late Syed Mazhar Iqbal Both residents of Village Mukipur (Jalalpur) P.S. Rupaspur, P.O. Sahai Nagar District Patna.

.... Petitioner/s

Versus

1. Md. Shaukat Ansari Son of Late Jumai Mian Resident of Village Jalalpur Rupaspur, P.S. Rupaspur, P.O. Sahai Nagar District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Mozaffar Hasan, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

4 15-03-2016 Heard learned counsel for the petitioner.

2. The present application has been filed under Article 227 of the Constitution of India assailing the impugned order by which the learned court below has rejected the prayer of the petitioner for determination of the suit value as preliminary issue.

3. The suit has been filed by the plaintiff-respondent for adjudication of title over the suit property and also for recovery of possession over the same. During the pendency of the suit the defendant filed a petition on 06.11.2012, wherein, the prayer was made to decide the valuation of the suit property as preliminary issue. It has been stated in the petition that the plaintiff-respondent is liable to pay ad valorem court fee on the valuation determined by the court and the defendants have expressed their



readiness to prove the valuation of the suit land as per the valuation of the land of different localities as fixed by the State of Bihar. It has also been pleaded that if the suit land is not properly valued, the defendants would be highly prejudiced and the State of Bihar would also be put in loss of revenue. The learned court below after considering the submissions and the materials produced by the parties has come to the conclusion that the issue of valuation of the suit would be decided at the time of final hearing of the suit and consequently dismissed the prayer made on behalf of the defendant-petitioner for determination of the same as preliminary issue.

4. Learned counsel for the petitioner has submitted that the learned court below has committed material irregularity in not deciding the issue of valuation of the suit land as preliminary issue. It has been canvassed that the valuation of the suit land is much more than Rs. 2 Crores and therefore, the valuation given by the plaintiff of the suit property as Rs. 50,000 is preposterous. Learned counsel has referred to the averments made in the supplementary affidavit and has drawn the attention of the court to the sale deed annexed therewith as Annexure-5 as well as the valuation chart of the lands of Anchal of Danapur as issued by the District Registration Office in order to substantiate the contention that the valuation of the suit land is far much higher.

5. After careful consideration of the matter and the submission on behalf of the petitioner, it is manifest that the valuation of the suit as mentioned in the plaint is Rs. 50,000/- upon which the Court Fee has been paid by the plaintiff. The contention on behalf of the defendants is that the suit property has much higher value in view of the rates fixed by the State of Bihar as well as the sale transactions of the similar properties but even in that case such an issue cannot be decided as a preliminary issue as the suit is pending before the court of Sub-Judge being the original Civil Court having jurisdiction over the matter. Moreover, the learned court below has in the impugned order observed that the issue of valuation of the suit property shall be considered at the time of final hearing.

6. In this view of the matter, this Court is not inclined to interfere in the impugned order. The present application is disposed of with observation that the learned court below will consider the issue of valuation of the suit property in accordance with law and on the basis of the evidence produced by the parties in that regard at the time of final hearing.

(V. Nath, J)

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